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SENATE BILL 845

47TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2005

INTRODUCED BY

Mary Kay Papen

AN ACT

RELATING TO TAXATION; PROVIDING FOR VOTER APPROVAL OF THE
ISSUANCE OF BONDS SECURED BY PROPERTY TAXES PURSUANT TO THE TAX
INCREMENT LAW; PROVIDING ELECTION PROCEDURES FOR THE FORMATION
OF DISTRICTS; PROVIDING FOR FINANCING OF METROPOLITAN
REDEVELOPMENT PROJECTS BY THE ISSUANCE OF BONDS SECURED BY
CERTAIN MUNICIPAL GROSS RECEIPTS TAX REVENUE INCREASES
ATTRIBUTABLE TO THOSE DISTRICTS; CREATING A FUND; PROVIDING
DISTRIBUTIONS; MAKING AN APPROPRIATION.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 3-60A-19 NMSA 1978 (being Laws 1979,
Chapter 391, Section 19) is amended to read:

"3-60A-19. TAX INCREMENT LAW - SHORT TITLE. -- Sections [19
~~through 25 of the Metropolitan Redevelopment Code]~~ 3-60A-19
through 3-60A-25 NMSA 1978 may be cited as the "Tax Increment

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1 Law". "

2 Section 2. Section 3-60A-20 NMSA 1978 (being Laws 1979,
3 Chapter 391, Section 20) is amended to read:

4 "3-60A-20. ALTERNATIVE METHOD OF FINANCING. --

5 A. [~~Effective for tax years beginning on or after~~
6 ~~January 1, 1980~~] After obtaining necessary approval pursuant to
7 Section 3-60A-23 NMSA 1978, the local governing body [~~of a~~
8 ~~municipality~~] may elect by [~~resolution~~] ordinance to use the
9 procedures set forth in the Tax Increment Law for financing
10 metropolitan redevelopment projects. Such procedures may be
11 used in addition to or in conjunction with other methods
12 provided by law for financing such projects.

13 B. The tax increment method, for the purpose of
14 financing metropolitan redevelopment projects, is the
15 dedication for further use in metropolitan redevelopment
16 projects of that increase in property tax revenue directly
17 resulting from the increased net taxable value of a parcel of
18 property attributable to its rehabilitation, redevelopment or
19 other improvement because of its inclusion within an urban
20 renewal, community development or metropolitan redevelopment
21 project. "

22 Section 3. Section 3-60A-21 NMSA 1978 (being Laws 1979,
23 Chapter 391, Section 21, as amended) is amended to read:

24 "3-60A-21. TAX INCREMENT PROCEDURES. --The procedures to
25 be used in the tax increment method are:

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1 A. the local governing body [~~of the municipality~~]
2 shall, at the time [~~after~~] of elector approval of the issuance
3 of tax increment bonds for a metropolitan redevelopment
4 project, notify the county assessor and the taxation and
5 revenue department of the taxable parcels of property within
6 the project;

7 B. upon receipt of notification pursuant to
8 Subsection A of this section, the county assessor and the
9 taxation and revenue department shall identify the parcels of
10 property within the metropolitan redevelopment project within
11 their respective jurisdictions and certify to the county
12 treasurer the net taxable value of the property at the time of
13 notification as the base value for the distribution of property
14 tax revenues authorized by the Property Tax Code. If because
15 of acquisition by the municipality the property becomes tax
16 exempt, the county assessor and the taxation and revenue
17 department shall note that fact on their respective records and
18 so notify the county treasurer, but the county assessor, the
19 taxation and revenue department and the county treasurer shall
20 preserve a record of the net taxable value at the time of
21 inclusion of the property within the metropolitan redevelopment
22 project as the base value for the purpose of distribution of
23 property tax revenues when the parcel again becomes taxable.
24 The county assessor is not required by this section to preserve
25 the new taxable value at the time of inclusion of the property

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1 within the metropolitan redevelopment project as the base value
2 for the purposes of valuation of the property;

3 C. if because of acquisition by the municipality
4 the property becomes tax exempt, when the parcel again becomes
5 taxable, the local governing body [~~of the municipality~~] shall
6 notify the county assessor and the taxation and revenue
7 department of the parcels of property that because of their
8 rehabilitation or other improvement are to be revalued for
9 property tax purposes. A new taxable value of this property
10 shall then be determined by the county assessor or by the
11 taxation and revenue department if the property is within the
12 valuation jurisdiction of that department. If no acquisition
13 by the municipality occurs, improvement or rehabilitation of
14 property subject to valuation by the assessor shall be reported
15 to the assessor as required by the Property Tax Code, and the
16 new taxable value shall be determined as of January 1 of the
17 tax year following the year in which the improvement or
18 rehabilitation is completed;

19 D. current tax rates shall then be applied to the
20 new taxable value. The amount by which the revenue received
21 exceeds that which would have been received by application of
22 the same rates to the base value before inclusion in the
23 metropolitan redevelopment project shall be credited to the
24 municipality and deposited in the metropolitan redevelopment
25 fund. This transfer shall take place only after the county

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1 treasurer has been notified to apply the tax increment method
2 to a specific property included in a metropolitan redevelopment
3 area. Unless the entire metropolitan redevelopment area is
4 specifically included by the municipality for purposes of tax
5 increment financing, the payment by the county treasurer to the
6 municipality shall be limited to those properties specifically
7 included. The remaining revenue shall be distributed to
8 participating units of government as authorized by the Property
9 Tax Code; and

10 E. the procedures and methods specified in this
11 section shall be followed annually for a maximum period of
12 twenty years following the date of notification of inclusion of
13 property as coming under the transfer provisions of this
14 section. "

15 Section 4. Section 3-60A-23 NMSA 1978 (being Laws 1979,
16 Chapter 391, Section 23, as amended) is amended to read:

17 "3-60A-23. TAX INCREMENT METHOD APPROVAL. --The tax
18 increment method shall be applicable only to the units of
19 government participating in property tax revenue derived from
20 property within a metropolitan redevelopment project and
21 approving the use of the tax increment method for that property
22 and only to the extent of the approval. An approval may be
23 restricted to certain types or sources of tax revenue. The
24 local governing body [of each municipality] shall request such
25 approval for up to a twenty-year period for property included

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1 in the tax increment funding. The governor or his authorized
2 representative shall approve, partially approve or disapprove
3 the use of the method for state government; the governing body
4 of each other participating unit shall approve, partially
5 approve or disapprove by ordinance or resolution the use of the
6 method for their respective units. At the request of a
7 participating unit of government, made within ten days of
8 receipt of the request by the municipality, the municipality
9 shall make a presentation to the governor or his authorized
10 representative and to the governing bodies of all participating
11 units of government, which presentation shall include a
12 description of the metropolitan redevelopment project and the
13 parcels in the project to which the tax increment method ~~[will]~~
14 is proposed to apply, and an estimate of the general effect of
15 the project and the application of the tax increment method on
16 property values and tax revenues. All participating units
17 shall notify the local governing body ~~[of the municipality]~~
18 seeking approval within thirty days of receipt of the
19 municipality's request. At the expiration of that time, the
20 alternative method of financing set forth in this section shall
21 be effective for a period of up to twenty tax years."

22 Section 5. Section 3-60A-23.1 NMSA 1978 (being Laws 2000,
23 Chapter 103, Section 4) is amended to read:

24 "3-60A-23.1. TAX INCREMENT BONDS. --

25 A. ~~[For the purpose of financing metropolitan~~

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1 ~~redevelopment projects, in whole or in part, a]~~ Upon approval
2 of the qualified electors of a metropolitan redevelopment area
3 of the issuance of tax increment bonds for a metropolitan
4 redevelopment project within the metropolitan redevelopment
5 area, the municipality ~~[may]~~ shall issue tax increment bonds or
6 tax increment bond anticipation notes that are payable from and
7 secured by real property taxes, in whole or in part, allocated
8 to the metropolitan redevelopment fund pursuant to the
9 provisions of Sections 3-60A-21 and 3-60A-23 NMSA 1978. The
10 principal of, premium, if any, and interest on the bonds or
11 notes shall be payable from and secured by a pledge of such
12 revenues, and the municipality shall irrevocably pledge all or
13 part of such revenues to the payment of the bonds or notes.
14 The revenues deposited in the metropolitan redevelopment fund
15 or the designated part thereof ~~may~~ thereafter be used only for
16 the payment of the principal of, premium, if any, and interest
17 on the bonds or notes, and a holder of the bonds or notes shall
18 have a first lien against the revenues deposited in the
19 metropolitan redevelopment fund or the designated part thereof
20 for the payment of principal of, premium, if any, and interest
21 on such bonds or notes. ~~[To increase the security and~~
22 ~~marketability of the tax increment bonds or notes, the~~
23 ~~municipality may:~~
24 ~~(1) create a lien for the benefit of the~~
25 ~~bondholders on any public improvements or public works used~~

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1 ~~solely by the metropolitan redevelopment project or portion of~~
2 ~~a project financed by the bonds or notes, or on the revenues of~~
3 ~~such improvements or works;~~

4 ~~(2) provide that the proceeds from the sale of~~
5 ~~real and personal property acquired with the proceeds from the~~
6 ~~sale of bonds or notes issued pursuant to the Tax Increment Law~~
7 ~~shall be deposited in the metropolitan redevelopment fund and~~
8 ~~used for the purposes of repayment of principal of, premium, if~~
9 ~~any, and interest on such bonds or notes; and~~

10 ~~(3) make covenants and do any and all acts not~~
11 ~~inconsistent with law as may be necessary, convenient or~~
12 ~~desirable in order to additionally secure the bonds or notes or~~
13 ~~make the bonds or notes more marketable in the exercise of the~~
14 ~~discretion of the local governing body.]~~

15 B. Bonds and notes issued pursuant to this section
16 ~~[shall not constitute an indebtedness within the meaning of any~~
17 ~~constitutional or statutory debt limitation or restriction]~~
18 shall not be general obligations of the municipality, shall be
19 collectible only from the proper pledged revenues and shall not
20 be subject to the provisions of any other law or charter
21 relating to the authorization, issuance or sale of tax
22 increment bonds or tax increment bond anticipation notes.
23 Bonds and notes issued pursuant to the Tax Increment Law are
24 declared to be issued for an essential public and governmental
25 purpose and, together with interest thereon, shall be exempted

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1 from all taxes by the state.

2 C. The bonds or notes [~~shall be authorized by an~~
3 ~~ordinance of the municipality~~] shall be in such denominations,
4 bear such date and mature, in the case of bonds, at such time
5 not exceeding twenty years from their date, and in the case of
6 notes, not exceeding five years from the date of the original
7 note; bear interest at a rate or have appreciated principal
8 value not exceeding the maximum net effective interest rate
9 permitted by the Public Securities Act; and be in such form,
10 carry such registration privileges, be executed in such manner,
11 be payable in such place within or without the state, be
12 payable at intervals or at maturity and be subject to such
13 terms of redemption as the authorizing ordinance or
14 supplemental resolution [~~or resolutions~~] of the municipality
15 may provide.

16 D. The bonds or notes may be sold in one or more
17 series at, below or above par, at public or private sale, in
18 such manner and for such price as the municipality, in its
19 discretion, shall determine; provided that the price at which
20 the bonds or notes are sold shall not result in a net effective
21 interest rate that exceeds the maximum permitted by the Public
22 Securities Act. As an incidental expense of a metropolitan
23 redevelopment project or portion thereof financed with the
24 bonds or notes, the municipality in its discretion may employ
25 financial and legal consultants with regard to the financing of

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1 the project.

2 E. In case any of the public officials of the
3 municipality whose signatures appear on any bonds or notes
4 issued pursuant to the Tax Increment Law shall cease to be
5 public officials before the delivery of the bonds or notes, the
6 signatures shall, nevertheless, be valid and sufficient for all
7 purposes, the same as if the officials had remained in office
8 until delivery. Any provision of law to the contrary
9 notwithstanding, any bonds or notes issued pursuant to the Tax
10 Increment Law shall be fully negotiable.

11 F. In any suit, action or proceeding involving the
12 validity or enforceability of any bond or note issued pursuant
13 to the Tax Increment Law or the security therefor, any bond or
14 note reciting in substance that it has been issued by the
15 municipality in connection with a metropolitan redevelopment
16 project shall be conclusively deemed to have been issued for
17 such purpose and the project shall be conclusively deemed to
18 have been planned, located and carried out in accordance with
19 the provisions of the Metropolitan Redevelopment Code.

20 G. The proceedings under which tax increment bonds
21 or tax increment bond anticipation notes are authorized to be
22 issued and any mortgage, deed of trust, trust indenture or
23 other lien or security device on real and personal property
24 given to secure the same may contain provisions customarily
25 contained in instruments securing bonds and notes and

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1 constituting a covenant with the bondholders.

2 H. A municipality may issue bonds or notes pursuant
3 to this section with the proceeds from the bonds or notes to be
4 used as other money is authorized to be used in the
5 Metropolitan Redevelopment Code.

6 ~~[I. The municipality shall have the power to issue~~
7 ~~renewal notes, to issue bonds to pay notes and whenever it~~
8 ~~deems refunding expedient, to refund any bonds by the issuance~~
9 ~~of new bonds, whether the bonds to be refunded have or have not~~
10 ~~matured, and to issue bonds partly to refund bonds then~~
11 ~~outstanding and partly for other purposes in connection with~~
12 ~~financing metropolitan redevelopment projects, in whole or in~~
13 ~~part. Refunding bonds issued pursuant to the Tax Increment Law~~
14 ~~to refund outstanding tax increment bonds shall be payable from~~
15 ~~real property tax revenues, out of which the bonds to be~~
16 ~~refunded thereby are payable or from other lawfully available~~
17 ~~revenues.~~

18 J.] I. The proceeds from the sale of any bonds or
19 notes shall be applied only for the purpose for which the bonds
20 or notes were issued and if, for any reason, any portion of the
21 proceeds are not needed for the purpose for which the bonds or
22 notes were issued, the unneeded portion of the proceeds shall
23 be applied to the payment of the principal of or the interest
24 on the bonds or notes.

25 ~~[K.]~~ J. The cost of financing a metropolitan

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1 redevelopment project shall be deemed to include the actual
2 cost of acquiring a site and the cost of the construction of
3 any part of a project, including architects' and engineers'
4 fees, the purchase price of any part of a project that may be
5 acquired by purchase and all expenses in connection with the
6 authorization, sale and issuance of the bonds or notes to
7 finance the acquisition, and any related costs incurred by the
8 municipality.

9 ~~[L.]~~ K. No action shall be brought questioning the
10 legality of any contract, mortgage, deed of trust, trust
11 indenture or other lien or security device, proceeding or bonds
12 or notes executed in connection with any project authorized by
13 the Metropolitan Redevelopment Code on and after thirty days
14 from the effective date of the ordinance authorizing the
15 issuance of such bonds or notes. "

16 Section 6. A new section of the Tax Increment Law is
17 enacted to read:

18 "[NEW MATERIAL] TAX INCREMENT BONDS--VOTER APPROVAL--
19 ELECTIONS. --

20 A. Upon approving or obtaining approval for the tax
21 increment method for a metropolitan redevelopment project
22 pursuant to Section 3-60A-23 NMSA 1978 and electing by
23 ordinance to issue tax increment bonds for that metropolitan
24 redevelopment project, the local governing body shall submit to
25 a vote of the qualified electors of the municipality in which

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1 the metropolitan redevelopment project is located the question
2 of issuing the tax increment bonds or tax increment notes to
3 fund the metropolitan redevelopment project. The election may
4 be held at the same time as the regular municipal election or
5 at any special election within the metropolitan redevelopment
6 area held for that purpose.

7 B. The local governing body shall give notice of
8 the time and place of holding the election and the purpose for
9 which the tax increment bonds are to be issued. Notice of a
10 tax increment bond election shall be given as required for any
11 bond election as required in the Municipal Election Code for
12 special elections. A change in the location of a polling place
13 after notice has been given shall not invalidate a tax
14 increment bond election.

15 C. The question shall state the purpose of the
16 metropolitan redevelopment project for which the tax increment
17 bonds are to be issued and the amount of the issue. If tax
18 increment bonds are to be issued for more than one metropolitan
19 redevelopment project, a separate question shall be submitted
20 to the voters for the purpose of each metropolitan
21 redevelopment project to be voted upon. The ballots shall
22 contain words indicating the purpose of the metropolitan
23 redevelopment project for which the tax increment bonds are to
24 be issued and a place for a vote "For tax increment bonds" and
25 "Against tax increment bonds" for each tax increment bond

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1 issue. The ballots shall be deposited in a separate ballot box
2 unless voting machines are used.

3 D. The vote upon each question proposing to issue
4 tax increment bonds shall be canvassed as provided in the
5 Municipal Election Code, and the municipal clerk shall certify
6 the results of the election and file the certificate of canvass
7 in the official minute book of the municipality.

8 E. If a majority of those voting on the question
9 favors the issuance of tax increment bonds, the local governing
10 body may proceed to issue the tax increment bonds in accordance
11 with the Tax Increment Law. "

12 Section 7. [NEW MATERIAL] SHORT TITLE. -- Sections 7
13 through 25 of this act may be cited as the "Metropolitan
14 Redevelopment Tax Act".

15 Section 8. [NEW MATERIAL] DEFINITIONS. -- As used in the
16 Metropolitan Redevelopment Tax Act:

17 A. "blighted area" means an area within the area of
18 operation, other than a slum area, which, by reason of the
19 presence of a substantial number of deteriorated or
20 deteriorating structures, predominance of defective or
21 inadequate street layout, faulty lot layout in relation to
22 size, adequacy, accessibility or usefulness, insanitary or
23 unsafe conditions, deterioration of site or other improvements,
24 diversity of ownership, tax or special assessment delinquency
25 exceeding the fair value of the land, defective or unusual

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1 conditions of title, improper subdivisions or lack of adequate
2 housing facilities in the area or obsolete or impractical
3 planning and platting or an area where a significant number of
4 commercial or mercantile businesses have closed or
5 significantly reduced their operations due to the economic
6 losses or loss of profit due to operating in the area, low
7 levels of commercial or industrial activity or redevelopment or
8 any combination of such factors that substantially impairs or
9 arrests the sound growth and economic health and well-being of
10 a municipality or locale within a municipality or an area that
11 retards the provisions of housing accommodations or constitutes
12 an economic or social burden and is a menace to the public
13 health, safety, morals or welfare in its present condition and
14 use;

15 B. "department" means the taxation and revenue
16 department, the secretary of taxation and revenue or any
17 employee of the department exercising authority lawfully
18 delegated to that employee by the secretary;

19 C. "district" means a metropolitan redevelopment
20 district formed pursuant to the Metropolitan Redevelopment Tax
21 Act;

22 D. "district board" means the board of directors of
23 a district;

24 E. "governing body" means the board or body in
25 which the legislative powers of a municipality are vested;

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1 F. "metropolitan redevelopment project" means an
2 activity or undertaking designed to eliminate a slum area or a
3 blighted area;

4 G. "municipality" means any incorporated city, town
5 or village, whether incorporated under general act, special act
6 or special charter, and an H-class county; and

7 H. "slum area" means an area within the area of
8 operation in which numerous buildings, improvements and
9 structures, whether residential or nonresidential, which, by
10 reason of its dilapidation, deterioration, age, obsolescence or
11 inadequate provision for ventilation, light, air, sanitation or
12 open spaces, high density of population, overcrowding or the
13 existence of conditions that endanger life or property by fire
14 or other causes, is conducive to ill health, transmission of
15 disease, infant mortality, juvenile delinquency or crime and is
16 detrimental to the public health, safety, morals and welfare.

17 Section 9. [NEW MATERIAL] RESOLUTION DECLARING INTENTION
18 TO FORM DISTRICT. --

19 A. If the public convenience and necessity require,
20 and on presentation of a petition signed by at least twenty-
21 five percent of the voters proposed to be included in a
22 district that may be referred to as a "metropolitan
23 redevelopment district", the governing body of a municipality
24 may adopt a resolution declaring its intention to finance a
25 metropolitan redevelopment project within the municipality and

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1 to form a district that would be subject to the tax increment
2 procedures set forth in the Metropolitan Redevelopment Tax Act
3 for the purpose of financing that metropolitan redevelopment
4 project. The resolution shall also state the municipality's
5 intention to include in the district contiguous or
6 noncontiguous property within an area in which the metropolitan
7 redevelopment project proposed to be financed is located. A
8 district shall be wholly within the corporate boundaries of the
9 municipality. If the governing body fails to act within ninety
10 days following presentation of a petition to create a district,
11 the petition shall be deemed to have been accepted by the
12 governing body, which shall adopt a resolution and hold a
13 public hearing pursuant to this section. The resolution shall
14 state:

15 (1) the area to be included within a district;

16 (2) a description of the metropolitan
17 redevelopment project for which the district is proposed for
18 formation and to which tax increment procedures pursuant to the
19 Metropolitan Redevelopment Tax Act are proposed to be applied;

20 (3) a general description of the tax increment
21 procedures that will be used to finance the metropolitan
22 redevelopment project for which a district is formed;

23 (4) a general plan for the district that is on
24 file with the clerk that includes a map depicting the
25 boundaries of the district;

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1 (5) a notice of public hearing in conformity
2 with the requirements of the Metropolitan Redevelopment Tax
3 Act;

4 (6) the place where written objections to the
5 formation of the district may be filed by the owner;

6 (7) that formation of the district may result
7 in the use of tax increment procedures pursuant to the
8 Metropolitan Redevelopment Tax Act for the financing of the
9 metropolitan redevelopment projects; and

10 (8) whether the district will be governed by a
11 district board comprised of the members of the governing body,
12 ex officio, or comprised of five directors initially appointed
13 by the governing body.

14 B. The resolution shall direct that a hearing on
15 formation of the district be scheduled and the notice be mailed
16 and published as provided in the Metropolitan Redevelopment Tax
17 Act.

18 C. Before adopting a resolution pursuant to this
19 section, a general plan for the metropolitan redevelopment
20 project for which the formation of a district is proposed shall
21 be filed with the clerk of the municipality.

22 Section 10. [NEW MATERIAL] NOTICE AND PUBLIC HEARING. --

23 A. The notice of public hearing to be held
24 concerning the formation of a district pursuant to the
25 Metropolitan Redevelopment Tax Act shall be mailed by

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1 registered or certified United States mail, postage prepaid, to
2 all registered voters in the proposed district at least thirty
3 days prior to the date of the hearing. In addition, notice
4 shall be published once each week for two successive weeks in a
5 newspaper of general circulation in the municipality in which
6 the proposed district lies. The last publication shall be at
7 least three days before the date of the hearing. The notice
8 shall comply with requirements of Subsections B and C of this
9 section.

10 B. The municipal clerk shall execute a notice,
11 which shall read substantially as follows:
12 "To whom it may concern:
13 The governing body of the (municipality) of _____, on
14 (Date), adopted the attached resolution declaring its intention
15 to form a metropolitan redevelopment district subject to gross
16 receipts tax increment financing procedures for the purpose of
17 financing a metropolitan redevelopment project. A hearing on
18 formation will be held on (Date), at (Time) at (Location).".

19 C. A summary of the resolution declaring the
20 governing body's intention to form the district shall be
21 attached to the notice, and the municipal clerk shall cause a
22 copy to be mailed to the registered voters in the district and
23 to all other persons who have filed a written request for a
24 copy of the notice within the six months preceding or at any
25 time following the adoption of the resolution of intent to form

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1 the district. The municipal clerk shall also publish a copy of
2 the notice and resolution summary at least twice in a newspaper
3 of general circulation in the municipality in which the
4 proposed district lies. The clerk shall execute an affidavit
5 of mailing stating the date of mailing and the names and
6 addresses of the persons to whom the notices and copies of the
7 resolutions were mailed. The clerk shall obtain an affidavit
8 from the newspaper in which the publication was made. The
9 clerk shall cause both affidavits to be placed in the official
10 records of the municipality. The affidavits are conclusive
11 evidence of the mailing and publishing of notice. Notice shall
12 not be held invalid for failure of delivery to the addressee.

13 Section 11. [NEW MATERIAL] ORDER FORMING DISTRICT--
14 ELECTION. --

15 A. The governing body shall determine during July
16 of a calendar year whether the district should be formed based
17 upon the interests, convenience or necessity of the residents
18 of the district and the municipality in which the proposed
19 district would be located. If the governing body determines
20 that the district should be formed, it shall adopt a resolution
21 ordering that the district be formed and then ordering that an
22 election be held on the question whether to form the district.
23 A resolution ordering a formation of the district shall state
24 that the district will be governed by a district board
25 consisting of members of the governing body, ex officio, or,

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1 upon determination of the governing body, five directors
2 appointed by the governing body, and shall contain the names of
3 the five initial directors and the terms of office of each. If
4 the governing body appoints a district board, it shall appoint
5 a treasurer and a clerk from the appointed members.

6 B. The conduct of a formation election shall meet
7 the requirements of the Metropolitan Redevelopment Tax Act.

8 Section 12. [NEW MATERIAL] NOTICE AND CONDUCT OF
9 ELECTION. --

10 A. An election for a formation of a district
11 pursuant to the Metropolitan Redevelopment Tax Act shall be a
12 nonpartisan election called by posting notices in three public
13 places within the boundaries of the district not less than
14 twenty days before the election. Notice shall also be
15 published in a newspaper of general circulation in the
16 municipality, or, if there is no newspaper so circulated in the
17 municipality, in a newspaper of general circulation in the
18 county in which the municipality is located once a week for two
19 consecutive weeks before the election. The notice shall state:

- 20 (1) the place of holding the election and
21 provisions for voting by mail, if any;
22 (2) the hours during the day, not less than
23 six, in which the polls will be open;
24 (3) the boundaries of the proposed district;
25 and

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1 (4) that a general plan is on file with the
2 municipal clerk.

3 B. The governing body shall determine the date of
4 the election and the polling places for the election. The
5 governing body may establish provisions for voting by mail.

6 C. Voter lists shall be used to determine the
7 qualified voters in a district.

8 D. Except as otherwise provided by this section,
9 the election shall comply with the general election laws of
10 this state. The ballot material provided to each voter shall
11 include:

12 (1) an impartial description of the
13 metropolitan redevelopment project contemplated within the
14 proposed district and a brief description of arguments for and
15 against the formation of the district, if any; and

16 (2) the ballot, which shall pose the question
17 to be voted upon as "metropolitan redevelopment district, yes"
18 and "metropolitan redevelopment district, no".

19 E. The governing body may provide for the returns
20 of the election to be made in person or by mail.

21 F. Within thirty days after an election, the
22 governing body shall meet and canvass the returns, determining
23 the number of votes properly cast for and against the question.
24 At least a three-fourths' majority of the votes cast at the
25 election shall be required for formation of the district. The

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1 canvass may be continued for an additional period not to exceed
2 thirty days at the election of the governing body for the
3 purpose of completing the canvass. Failure of a majority to
4 vote in favor of the matter submitted shall not prejudice the
5 submission of the same or similar matters at a later election.

6 Section 13. [NEW MATERIAL] FORMATION. --

7 A. If the formation of the district is approved by
8 at least a three-fourths' majority of the votes cast at the
9 election, the governing body shall cause a copy of the
10 resolution ordering formation of the district to be delivered
11 to the department and the local government division of the
12 department of finance and administration.

13 B. Except as otherwise provided in this section, a
14 district shall be a political subdivision of the state,
15 separate and apart from the municipality.

16 C. Following formation of the district, the
17 district board shall administer in a reasonable manner the
18 implementation of the general plan for the metropolitan
19 redevelopment project of the district.

20 Section 14. [NEW MATERIAL] APPOINTMENT OF
21 DIRECTORS-- QUALIFICATIONS-- TERMS-- RESUMPTION OF GOVERNANCE BY
22 GOVERNING BODY. --

23 A. The governing body, at its option, may authorize
24 the appointment of a separate district board. In the case of
25 an appointed district board, three of the appointed directors

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1 shall serve an initial term of six years. Two of the appointed
2 directors shall serve an initial term of four years. The
3 resolution forming the district shall state which directors
4 shall serve four-year terms and which shall serve six-year
5 terms. If a vacancy occurs on the district board because of
6 death, resignation or inability of the director to discharge
7 the duties of director, the governing body shall appoint a
8 director to fill the vacancy, who shall hold office for the
9 remainder of the unexpired term until his successor is
10 appointed or elected.

11 B. A director may be a director of more than one
12 district.

13 C. At the end of the appointed directors' initial
14 term, the governing body shall resume governance of the
15 district as its board or, at its option, shall hold an election
16 of new directors by majority vote of the residents of the
17 district.

18 Section 15. [NEW MATERIAL] POWERS OF A DISTRICT. --

19 A. In addition to the powers otherwise granted to a
20 district pursuant to the Metropolitan Redevelopment Tax Act,
21 the district board, in implementing a general plan pursuant to
22 that act, may:

23 (1) enter into contracts and expend money for
24 a metropolitan redevelopment project within the district;

25 (2) enter into development agreements with

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1 municipalities, counties or other local government entities in
2 connection with property located within the boundaries of the
3 district;

4 (3) enter into intergovernmental agreements as
5 provided in the Joint Powers Agreements Act for the planning,
6 design, inspection, ownership, control, maintenance, operation
7 or repair of infrastructure for a metropolitan redevelopment
8 project or the provision of enhanced services by the
9 municipality in the district and any other purpose authorized
10 by the Metropolitan Redevelopment Tax Act;

11 (4) sell, lease or otherwise dispose of
12 district property if the sale, lease or conveyance is not a
13 violation of the terms of any contract or bond covenant of the
14 district;

15 (5) reimburse the municipality in which the
16 district is located for providing enhanced services in the
17 district;

18 (6) employ staff, counsel and consultants;

19 (7) reimburse the municipality in which the
20 district is located for staff and consultant services and
21 support facilities supplied by the municipality;

22 (8) accept gifts or grants and incur and repay
23 loans for a metropolitan redevelopment project;

24 (9) pay the financial, legal and
25 administrative costs of the district; and

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1 (10) use public easements and rights of way in
2 or across public property, roadways, highways, streets or other
3 thoroughfares and other public easements and rights of way,
4 whether in or out of the geographical limits of the district or
5 the municipality.

6 B. Notwithstanding the provisions of the
7 Procurement Code, or local procurement requirements that may
8 otherwise be applicable to the municipality in which the
9 district is located, the district board, whether appointed or
10 composed of members of the governing body, ex officio, may
11 enter into contracts to carry out any of the district's
12 authorized powers with a contractor or other person or entity,
13 on such terms and with such persons as the district board
14 determines to be appropriate.

15 Section 16. [NEW MATERIAL] RECORDS-- BOARD OF DIRECTORS--
16 OPEN MEETINGS.--

17 A. The district shall keep the following records,
18 which shall be open to public inspection:

- 19 (1) minutes of all meetings of the district
20 board;
- 21 (2) all resolutions;
- 22 (3) accounts showing all money received and
23 disbursed;
- 24 (4) the annual budget; and
- 25 (5) all other records required to be

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1 maintained by law.

2 B. The district board shall appoint a clerk and
3 treasurer for the district.

4 Section 17. [NEW MATERIAL] OTHER DISTRICTS. -- The
5 formation of a district pursuant to the Metropolitan
6 Redevelopment Tax Act shall not prevent the subsequent
7 establishment of similar districts.

8 Section 18. [NEW MATERIAL] RECORDING DOCUMENTS. -- The
9 district shall file and record with the county clerk the
10 resolution ordering formation of the district, the general plan
11 of the district and the canvass of any general obligation bond
12 election.

13 Section 19. [NEW MATERIAL] DISSOLUTION OF DISTRICT. -- The
14 district shall be dissolved by the district board by a
15 resolution of the district board upon a determination that each
16 of the following conditions exist:

17 A. the metropolitan redevelopment project for which
18 the district was formed is complete or provision has been made
19 for metropolitan redevelopment projects to be conveyed to the
20 municipality in which the district is located;

21 B. the municipality has no outstanding bond
22 obligations issued to finance a metropolitan redevelopment
23 project in the district; and

24 C. all obligations of the district pursuant to any
25 development agreement with the municipality have been

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1 satisfied.

2 Section 20. [NEW MATERIAL] LIMITATION OF
3 LIABILITY. -- Neither any member of the board of directors of a
4 district nor any person acting on behalf of the district, while
5 acting within the scope of that person's authority, shall be
6 subject to any personal liability for any action taken or
7 omitted within that scope of authority.

8 Section 21. [NEW MATERIAL] CUMULATIVE AUTHORITY. -- The
9 Metropolitan Redevelopment Tax Act shall be regarded as
10 supplemental and additional to powers conferred by other laws
11 and shall not be regarded as in derogation of any existing
12 powers.

13 Section 22. [NEW MATERIAL] ALTERNATIVE METHOD OF
14 FINANCING. --

15 A. Effective for tax years beginning on or after
16 January 1, 2006, the governing body may elect by ordinance to
17 use the procedures set forth in the Metropolitan Redevelopment
18 Tax Act for financing metropolitan redevelopment projects
19 within districts within a municipality. Those procedures may
20 be used in addition to, or in conjunction with, other methods
21 provided by law for financing such projects.

22 B. The tax increment method, for the purpose of
23 financing metropolitan redevelopment projects, is the
24 dedication for further use in metropolitan redevelopment
25 projects of the increase in revenues to municipalities from the

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1 imposition of local option gross receipts taxes in districts
2 within those municipalities and from distributions to those
3 municipalities pursuant to Section 7-1-6.46 NMSA 1978
4 attributable to state gross receipts taxes collected within
5 those districts.

6 Section 23. [NEW MATERIAL] TAX INCREMENT PROCEDURES. --

7 After the last day of the calendar year during which a
8 municipality issues bonds for a metropolitan redevelopment
9 project, and upon request by a municipality, the department
10 shall certify to the municipality as a base revenue value the
11 amount of gross receipts taxes that the department collected on
12 behalf of the municipality pursuant to the Municipal Local
13 Option Gross Receipts Taxes Act within a district during the
14 calendar year preceding the issuance of bonds for the
15 metropolitan redevelopment project and the amount distributed
16 during the calendar year to the municipality pursuant to
17 Section 7-1-6.46 NMSA 1978 attributable to state gross receipts
18 taxes collected within that district. All applicable municipal
19 gross receipts tax rates imposed pursuant to the Municipal
20 Local Option Gross Receipts Taxes Act shall then be applied to
21 the gross receipts that the department determines are collected
22 in the district during the calendar year in which bonds are
23 issued pursuant to the Metropolitan Redevelopment Tax Act, and
24 that amount shall be added to the amount distributed to the
25 municipality during that calendar year pursuant to Section

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1 7-1-6.46 NMSA 1978, which is attributable to gross receipts
2 collected within the same district. The amount by which that
3 sum exceeds the base revenue value shall be credited to the
4 district and deposited in the district redevelopment fund.

5 Section 24. [NEW MATERIAL] DISTRICT REDEVELOPMENT
6 FUND.--The "district redevelopment fund" is created in the
7 state treasury. The fund shall consist of money deposited into
8 the fund pursuant to the Metropolitan Redevelopment Tax Act.
9 An amount equal to the amount of money in the fund credited to
10 a district pursuant to the Metropolitan Redevelopment Tax Act
11 shall be appropriated to the district for the metropolitan
12 redevelopment project for which the district is formed.
13 Disbursements from the fund shall be by warrant of the
14 secretary of finance and administration upon vouchers signed by
15 a director serving on the district board of that district.
16 Money in the fund shall not revert to the general fund at the
17 end of a fiscal year.

18 Section 25. [NEW MATERIAL] MUNICIPAL GROSS RECEIPTS TAX
19 INCREMENT BONDS--AUTHORITY TO ISSUE--PLEDGE OF REVENUES.--

20 A. For the purpose of financing a metropolitan
21 redevelopment project, in whole or in part, for a district
22 within a municipality, that municipality may issue bonds, to be
23 known as "municipal gross receipts tax increment bonds", that
24 are payable from and secured by gross receipts taxes credited
25 to a district within that municipality and deposited in the

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1 district redevelopment fund pursuant to the Metropolitan
2 Redevelopment Tax Act. The principal of, premium, if any, and
3 interest on the bonds shall be payable from and secured by a
4 pledge of those revenues, and the municipality shall
5 irrevocably pledge all or part of those revenues to the payment
6 of the bonds. The revenues deposited in the district
7 redevelopment fund or the designated part thereof may be used
8 only for the payment of the principal of, premium, if any, and
9 interest on the bonds, and a holder of the bonds shall have a
10 lien against the revenues deposited in the district
11 redevelopment fund or the designated part thereof for the
12 payment of the principal of, premium, if any, and interest on
13 such bonds. If the issuance of bonds pursuant to the
14 Metropolitan Redevelopment Tax Act impairs the ability of a
15 municipality to meet its principal or interest payment
16 obligations for revenue bonds outstanding prior to July 1, 2005
17 that are secured by the pledge of all or part of the
18 municipality's revenue from the distribution made to the
19 municipality pursuant to Section 7-1-6.4 NMSA 1978, the amount
20 distributed to the municipality pursuant to that section shall
21 be increased by an amount sufficient to meet any required
22 payment.

23 B. Bonds issued pursuant to this section shall not
24 constitute an indebtedness within the meaning of any
25 constitutional or statutory debt limitation or restriction,

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1 shall not be general obligations of the municipality, shall be
2 collectible only from the proper pledged revenues and shall not
3 be subject to the provisions of any other law or charter
4 relating to the authorization, issuance or sale of tax
5 increment bonds or tax increment bond anticipation notes.

6 Bonds issued pursuant to the Metropolitan Redevelopment Tax Act
7 are declared to be issued for an essential public and
8 governmental purpose and, together with interest thereon, shall
9 be exempted from all taxes by the state.

10 C. The bonds shall be authorized by an ordinance of
11 the municipality shall be in such denominations, bear such date
12 and mature, at a time not exceeding twenty years from their
13 date, bear interest at a rate or have appreciated principal
14 value not exceeding the maximum net effective interest rate
15 permitted by the Public Securities Act and be in such form,
16 carry registration privileges, be executed in such manner, be
17 payable in such place within or without the state, be payable
18 at intervals or at maturity and be subject to such terms of
19 redemption as the authorizing ordinance or supplemental
20 ordinance or supplemental resolution of the municipality may
21 provide.

22 D. The bonds or notes may be sold in one or more
23 series at, below or above par, at public or private sale, in
24 such manner and for such price as the municipality, in its
25 discretion, shall determine; provided that the price at which

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1 the bonds or notes are sold shall not result in a net effective
2 interest rate that exceeds the maximum permitted by the Public
3 Securities Act. As an incidental expense of a metropolitan
4 redevelopment project or portion of that project financed with
5 the bonds, the municipality may employ financial and legal
6 consultants with regard to financing the project.

7 E. In case any of the public officials of the
8 municipality whose signatures appear on any bonds issued
9 pursuant to the Metropolitan Redevelopment Tax Act shall cease
10 to be public officials before the delivery of the bonds or
11 notes, the signatures shall be valid and sufficient for all
12 purposes, the same as if the officials had remained in office
13 until delivery. Any provision of law to the contrary
14 notwithstanding, any bonds issued pursuant to the Metropolitan
15 Redevelopment Tax Act shall be fully negotiable.

16 F. In any suit, action or proceeding involving the
17 validity or enforceability of any bond issued pursuant to the
18 Metropolitan Redevelopment Tax Act, any bond reciting in
19 substance that it has been issued by the municipality in
20 connection with a metropolitan redevelopment project shall be
21 conclusively deemed to have been issued for that purpose.

22 G. The proceedings under which bonds are authorized
23 to be issued and any mortgage, deed of trust, trust indenture
24 or other lien or security device on real and personal property
25 given to secure the lien or security device may contain

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1 provisions customarily contained in instruments securing bonds
2 and notes and constituting a covenant with the bondholders.

3 H. The municipality shall have the power to issue
4 renewal notes, to issue bonds and, whenever it deems refunding
5 expedient, to refund any bonds by the issuance of new bonds,
6 whether the bonds to be refunded have or have not matured, and
7 to issue bonds partly to refund bonds then outstanding and
8 partly for other purposes in connection with financing
9 metropolitan redevelopment projects, in whole or in part.
10 Refunding bonds issued pursuant to the Metropolitan
11 Redevelopment Tax Act to refund outstanding tax increment bonds
12 shall be payable from gross receipts tax revenues, out of which
13 the bonds to be refunded thereby are payable from other
14 lawfully available revenues.

15 I. The proceeds from the sale of any municipal tax
16 increment bonds shall be applied only for the purpose for which
17 the bonds or notes were issued and if, for any reason, any
18 portion of the proceeds are not needed for the purpose for
19 which the bonds were issued, the unneeded portion of the
20 proceeds shall be applied to the payment of the principal or
21 the interest on the bonds or notes.

22 J. The cost of financing a metropolitan
23 redevelopment project includes the actual cost of acquiring a
24 site and the cost of the construction of any part of the
25 metropolitan redevelopment project, including architects' and

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1 engineers' fees, the purchase price of any part of that project
2 that may be acquired by purchase and all expenses in connection
3 with the authorization, sale and issuance of the bonds or notes
4 to finance the acquisition, and any related costs incurred by
5 the municipality.

6 Section 26. EFFECTIVE DATE. --The effective date of the
7 provisions of this act is July 1, 2005.

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